

Malibu City Council **Regular Meeting Agenda**

Monday, July 28, 2003

5:30 P.M. – CLOSED SESSION
City Hall – Large Conference Room
23815 Stuart Ranch Road

6:30 P.M. – REGULAR CITY COUNCIL MEETING
City Hall – Council Chambers
23815 Stuart Ranch Road

Five-thirty p.m. Closed Session

This time has been set aside for the City Council to meet in a closed session to discuss matters of pending litigation pursuant to Government Code Sections 54956.9(a), 54956.9(b), 54956.8 and 54956.8. Based on the advice of the City Attorney discussion in open session concerning these matters would prejudice the position of the City in this litigation. The City Attorney will give an additional oral report regarding the closed session at the beginning of the next regular City Council meeting.

Public Comment on Closed Session Items

Existing litigation per Government Code Section 54956.9 (a):

1. Chicksands Properties LTD. v. City of Malibu et al.
Los Angeles County Superior Court Case No. BS072081
2. City of Malibu v. California Coastal Commission (Streisand Center Coastal Permit)
Los Angeles County Superior Court Case No. BC230410
3. City of Malibu v. California Coastal Commission / TLC / Liebig (Referendum)
Los Angeles County Superior Court Case No. SS011355
4. City of Malibu v. California Coastal Commission (AB988 / LCP)
Los Angeles County Superior Court Case No. SC074641

Related cases (city named as a party in interest):

- a. Rick Appel v. California Coastal Commission
Case No. SC074658
- b. Ralph Herzig v. California Coastal Commission
Case No. SS011382
- c. Land Use Preservation v. California Coastal Commission
Case No. SS011388
- d. Riverview Farm Associates v. California Coastal Commission
Case No. SS011383
- e. Brian Sweeney v. California Coastal Commission
Case No. SS011387
- f. Trancas-PCH v. California Coastal Commission
Case No. SC074640

- g. Tuna Ridge v. California Coastal Commission
Case No. SC011381
- h. Land Use Preservation Defense Fund v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011388
- 5. City of Malibu, et al. v. County of Ventura, et al. (Ahmanson Ranch)
Ventura County Superior Court Case No. CIV 216938
- 6. City of Malibu / Geffen v. Access for All / Coastal Commission et al
Los Angeles County Superior Court Case No. BC277034
- 7. United States of America ex rel. Darian v. Accent Builders inc. et al.
United States District Court Case No. CV00-10255-FMC(JWJx)
- 8. Malibu Township Council v. City of Malibu II (28-car garage)
Los Angeles County Superior Court Case No. BS079965
- 9. Marine Forest Society v. California Coastal Commission Case No. 00AS00567 (Sacramento Superior Court)
(Amicus)
- 10. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331
- 11. Silver v. City of Malibu
Los Angeles County Superior Court Case No. BS081960
- 12. Sprint v. City of Malibu et al
United States District Court Case No. SACV02660 DOC (MLGx)
- 13. Sweeney et al v. City of Malibu
Los Angeles County Superior Court Case No. SS011602
- 14. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585
- 15. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu
Los Angeles County Superior Court Case No. BS072794
- 16. City of Arcadia, et al. v. Regional Water Quality Board, et al.
Los Angeles County Superior Court Case Nos. BS080807, BS080548, SO80753, BS080758, BS080791

Conference With Legal Counsel – Anticipated Litigation pursuant to Government Code Section 54956.9(b):

- 17. Number of Cases: 2

Real Estate negotiation matters pursuant to Government Code Section 54956.8:

18. Property APN: 4458-021-005 and 4458-022-012
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Tom Fitzpatrick
Under Negotiation: Price and terms of payment
19. Property APN: 4458-018-002, 018, 019
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Roy E. Crummer
Under Negotiation: Price and terms of payment
20. Property APN: 4458-022-019 and 4458-021-003
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Wave Property Inc.
Under Negotiation: Price and terms of payment
21. Property APN: 4472-027-901 & 902; 4472-028-901 & 902; 4473-005-901 & 902; 4473-006-900
Property Negotiator: City Manager Lichtig or designee
Buyer Negotiator: State of California / Santa Monica Mountains Conservancy
Under Negotiation: Price and terms of payment
22. Property located at: 23801 and 23833 Stuart Ranch Road
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Yamaguchi Tokiye Trust
Under Negotiation: Price and terms of payment

Six-thirty p.m. Regular Session

Public Hearings will begin at 6:30 p.m., or as soon thereafter as possible, but in no event later than 7:30 p.m.

Call to Order - Mayor

Roll Call - Recording Secretary

Pledge of Allegiance

Closed Session Report

Approval of Agenda

Report on Posting of Agenda – July 18, 2003

1. Ceremonial/Presentations

- A. Recognition of Deputy Robert Amstutz as one of two STAR Deputies of the Year

2. Written and Oral Communications from the Public

- A. Communications from the Public concerning matters which are not on the agenda but for which the City Council has subject matter jurisdiction. City Council may not act on these matters except to refer the matters to staff or schedule the matters for a future agenda.
- B. City Council Subcommittee reports/Mayor and Councilmember reports and inquiries.

3. Consent Calendar

- A. Previously Discussed Items

1. *This item will only be heard if the City Council takes action to introduce the ordinances on first reading on July 22, 2003*

Malibu Bay Company Development Agreement – Applicant: Malibu Bay Company; Owner: Malibu Bay Company; Location: Civic Center, Trancas Canyon, and Point Dume areas

Staff recommendation:

- 1) conduct second reading, unless waived, and adopt Ordinance No. 249 amending Malibu Municipal Code (MMC) Chapter 17.42, creating West Zuma Residential Overlay District and Trancas Canyon Residential Overlay District;
- 2) conduct second reading, unless waived, and adopt Ordinance No. 250 adding MMC Chapter 17.43, creating the Town Center Overlay District and West Zuma Commercial Overlay District;
- 3) conduct second reading, unless waived, and adopt Ordinance No. 251 approving certain amendments to the Zoning Map, as related to the proposed Development Agreement;
- 4) conduct second reading, unless waived and adopt Ordinance No. 252 approving the proposed Malibu Bay Company Development Agreement.

Staff contact: Interim Planning Manager Knight, 456-2489 ext. 243

- B. New Items

1. Waive further reading

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

Staff contact: City Attorney Hogin, 456-2489 ext. 228

2. Approve Warrants

Staff recommendation: 1) To allow and approve warrant demand numbers 22456 through 22459, 22465 through 22479 and 22488 through 22543 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 289 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$960,405.81, including ADP payroll voucher numbers 4457895 – 4457912 in the amount of \$95,693.34; and 2) to allow and approve warrant demand numbers 22460 through 22464, 22480 through 22487 and 22544 through 22568 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 290 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands making a total amount of \$69,036.13.

Staff contact: Administrative Services Director James, 456-2489 ext. 224

3. Approval of Minutes

Approve City Council meeting minutes for the Regular City Council meeting held on June 23, 2003.

Staff contact: City Clerk Pope, 456-2489 ext. 228

4. Ordinances and Public Hearings

This portion of the agenda is for ordinances and for advertised hearing items where formal public testimony on each item is received prior to City Council action; the public hearings will begin at 6:30 p.m., or as soon thereafter as possible, but in no event later than 7:30 p.m.

A. 2002 Congestion Management Program – Compliance with the Congestion Management Program for Los Angeles County and the Adoption of the 2003 Local Implementation Report

The Los Angeles County Congestion Management Program (CMP) was adopted in 2002. Pursuant to State statute, the program must be updated every two years. The next update will be in 2004. Although the CMP is updated every two years, a local implementation report must be prepared every year. Therefore, the City of Malibu has prepared its Local Implementation Report for 2003.

Staff recommendation: Hold a public hearing and adopt Resolution No. 03-37, finding the City in conformance with the 2002 Congestion Management Program (CMP) and adopting the CMP 2003 Local Implementation Report in accordance with California Government Code Section 65089.

Staff contact: Interim Planning Manager Knight, 456-2489 ext. 243

- B. Zoning Text Amendment No. 03-003 / Negative Declaration No. 03-002 – An Amendment to Title 17 (Zoning) of the Malibu Municipal Code, Chapter 17.46 (Wireless Telecommunications Antennas and Facilities), to clarify the regulations, procedures and application requirements for the installation of wireless telecommunication antennas and facilities in the City of Malibu

The City Council will consider amendments to the City's zoning ordinance to clarify the regulations, procedures and application requirements for the installation of wireless telecommunication facilities.

Staff recommendation: 1) Adopt Resolution No. 03-41 approving Negative Declaration No. 03-002 for an amendment to Title 17 Interim Zoning Ordinance, Chapter 17.46 (Wireless Telecommunications Antennas and Facilities), to clarify the regulations, procedures, and application requirements for the installation of wireless telecommunications antennas and facilities in the City of Malibu; 2) after the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 253 approving Zoning Text Amendment No. 03-003 regarding zoning changes to Title 17 (Zoning) of the Malibu Municipal Code, Chapter 17.46 (Wireless Telecommunications Antennas and Facilities), to clarify the regulations, procedures, and application requirements for the installation of wireless telecommunication antennas and facilities in the City of Malibu; and 3) direct staff to schedule second reading and adoption of Ordinance No. 253 on August 11, 2003.

Staff contact: Interim Planning Manager Knight, 456-2489 ext. 243

- C. Zoning Text Amendment No. 03-002 / Negative Declaration No. 03-003 – An Amendment to Title 17 (Zoning) of the Malibu Municipal Code, Chapter 17.04 (Administration and Enforcement), more specifically Section 17.04.120 (Application – Filing), to consider the deletion of a code provision that bars zoning applications where a code violation exists on the subject property and removing the reference of “Interim” throughout the zoning ordinance.

The City Council will consider amendments to the City's zoning ordinance to remove a code provision that bars zoning applications from being considered on a property where a code violation exists. The City Council will also consider removing the reference of "Interim" throughout the zoning ordinance.

Staff recommendation: : 1) Adopt Resolution No. 03-42 approving Negative Declaration No. 03-003 for a Zoning Text Amendment proposing changes to Title 17 (Zoning) of the Malibu Municipal Code, Chapter 17.04 (Administration and Enforcement), more specifically Section 17.04.120 (Application - filing), deleting the code provision that bars zoning applications where a code violation exists on the subject property and removing the reference of “interim” throughout the Zoning Ordinance; 2) after the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 254 approving Zoning Text Amendment No. 03-002 regarding zoning changes to Title 17 (Zoning) of the Malibu Municipal Code, Chapter 17.04 (Administration and Enforcement), more specifically Section 17.04.120 (Application - filing), deleting the code provision that bars zoning applications where a code violation exists on the subject property and removing the reference of “interim” throughout the Zoning Ordinance; and 3) direct staff to schedule second reading and adoption of Ordinance No. 254 on August 11, 2003.

Staff contact: Interim Planning Manager Knight, 456-2489 ext. 243

5. Old Business**A. Consideration of Proposal from WildRescue (Continued from July 14, 2003)**

This item was continued from the July 14, 2003 City Council meeting in order to afford the applicant additional time to prepare a response. The applicant is requesting the City Council approve a contract to allow WildRescue to provide assistance to injured or deceased mammals along the beach.

Staff recommendation: To avoid confusion and future conflicts, staff recommends that the City not contract with WildRescue for marine mammal rescue services.

Staff contact: Administrative Services Director James, 456-2489 ext. 224

6. New Business**7. Council Items****Adjournment****Future Meetings**

Wed., July 30, 2003	6:00 p.m.	Quarterly City Council Meeting	City Hall Council Chambers
Mon., August 11, 2003	6:30 p.m.	Regular City Council Meeting	City Hall Council Chambers
Mon, August 25, 2003		CANCELLED	
Mon., September 8, 2003	6:30 p.m.	Regular City Council Meeting	City Hall Council Chambers

Guide to the City Council Proceedings

The Oral Communication portion of the agenda is for members of the public to present items which are not listed on the agenda, but are under the subject matter jurisdiction of the City Council. No action may be taken under this section except to direct staff unless the Council, by a two-thirds vote, determines that the need to take action arose after the posting of the agenda or that the item presents an emergency situation for which action is required prior to the next regularly scheduled meeting of the City Council. Although no action may be taken on these non agenda items, the Council and staff will follow up on those items needing response. Each speaker is limited to (3) three minutes. Time may be surrendered by deferring (1) one minute to another speaker, on the same item, not to exceed a total of (8) eight minutes. The speaker wishing to defer time must be present when the item is heard. In order to be recognized and present an item, each speaker must complete and submit to the Recording Secretary a Request to Speak form prior to the beginning of the item being announced by the Mayor (forms are available at the Chamber doors). Speakers are taken in the order slips are submitted.

Items in Consent Calendar Section A have already been considered by the Council at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Council. If discussion is desired, an item may be removed from the Consent Calendar and will be considered individually. Councilmembers may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from Consent Calendar will be taken up by the Council following the action on the consent calendar. The Council first will take up the items for which public speaker requests have been submitted. Public speakers are limited to (3) three minutes each. If a speaker slip is submitted late the speaker's time will be limited to (2) minutes. If more than 10 speaker slips are submitted each speaker's time will be limited to (2) two minutes each.

Items set for Public Hearing commence at 7:30 p.m. or as soon thereafter as practical. At that time the City Council will stop its other proceedings and move directly to Public Hearing items. At the conclusion of Public Hearings the City Council will continue the agenda where it left off. For Public Hearings involving zoning matters the appellant will be given 15 minutes to present their position to the City

Council, including rebuttal time. All other testimony shall be limited to (3) three minutes per person and follow the rules as set forth under Oral Communication.

Items in Old Business are items which have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Public comment on any item is permitted under the public comment rules. Speakers should address whether they are supportive or opposed to either the recommended action or the motion before the City Council for decision.

Items in New Business are items which are appearing for the first time for formal action. Public comment on any item is permitted under the public comment rules. Speakers should address whether they are supportive or opposed to either the recommended action or the motion before the City Council for decision.

City Council Items are items which individual members of the City Council may bring up in terms of reporting to other members of the City Council, to propose future agenda items or to suggest future staff assignments. Items discussed under City Council Items follow the same rules as set forth under Oral Communications in terms of the actions the City Council may take on any item brought up under this portion of the agenda. Each Councilmember's oral item presentations are limited to four minutes. No new items will be taken-up after 10:30 p.m. without a two-thirds vote of the City Council.

City Council meetings are aired on City of Malibu Government Access Channel 3. Broadcasts on Channel 3 occur at 8:00 a.m. and 8:00 p.m. Monday, Wednesday and Friday, Tuesday and Thursday at 8:00 p.m., and at 2:00 p.m. on both Saturday and Sundays. Copies of the staff reports or other written documentation relating to each item of business described above are on file in the office of the City Clerk, Malibu City Hall, 23815 Stuart Ranch Road, Malibu, California and are available for public inspection during regular office hours which are 8:00 a.m. to 5:00 p.m., Monday through Thursday and 8:00 a.m. to 4:30 p.m., Friday. Copies of staff reports may be purchased for \$0.10 per page. Pursuant to State law, this agenda was posted at least 72 hours prior to the meeting at the Malibu City Offices, Malibu Community Center at Point Dume and Malibu Community Library. The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Building & Safety Director Victor Peterson, (310) 456-2489, ext. 251. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II]

I hereby certify under penalty of perjury, under the laws of the State of California, that the foregoing agenda was posted in accordance with the applicable legal requirements. Dated this 18th day of July 2003.

Lisa Pope, City Clerk